



# CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development


Telephone  
(617)-796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089

Setti D. Warren  
Mayor

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DATE: December 10, 2010

TO: Alderman Marcia T. Johnson, Chairman, and  
Members of the Zoning and Planning Committee

FROM: Candace Havens, Interim Director of Planning and Development  
Jennifer Molinsky, Interim Chief Planner for Long Range Planning 

RE: **Working Session**  
**#142-09(4), INTERIM DIRECTOR OF PLANNING AND DEVELOPMENT** requesting discussion of findings of Floor Area Ratio Working Group and consideration of recommended revisions to Chapter 30 regarding FAR limits tied to lot sizes and definitions of "gross floor area," "carport," "mass below first story," "porch," "enclosed porch," and "floor area ratio," as well as phasing of ongoing changes.

CC: Board of Aldermen  
Mayor Setti D. Warren  
Planning and Development Board  
John Lojek, Commissioner of Inspectional Services  
Marie Lawlor, Assistant City Solicitor

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On November 29, 2010 the Zoning and Planning Committee continued its discussion of petition #142-09(4) regarding potential changes to Newton's Zoning Ordinance related to floor area ratio (FAR). The Planning Department presented its analysis of the FAR Working Group's proposal. In summary, the Department was supportive of the Working Group's proposals for definition changes and for a sliding scale of FAR limits tied to lot sizes, but expressed concern for potential overbuilding on small lots and loss of existing housing stock. The Department proposed a more conservative set of FAR limits and a bonus that would incentivize renovations and additions to existing housing stock over new construction. Following the meeting, Planning Department staff and the FAR Working Group met to discuss the ways to address these goals.

## **Results of Working Group and Planning Department Meeting**

On December 6<sup>th</sup>, six of the seven FAR Working Group members met with the Planning Department staff and Interim Director as well as the Inspectional Services Commissioner. The collective group agreed to the following:

- 1) Using the Working Group's proposed FAR limits, scaled back by .02;

- 2) Allowing a .02 FAR bonus for new construction on old (pre-1954) lots if built to new lot setback standards; and
- 3) Using slightly different lot size categories that better mirror the minimum lot sizes used in the current Zoning Ordinance.

The proposed FAR limits are listed below:

Lot Size Category (square feet)	SR1		SR2		SR3	
	Beginning FAR	Ending FAR	Beginning FAR	Ending FAR	Beginning FAR	Ending FAR
0 to 4999	0.46	0.46	0.46	0.46	0.48	0.48
5000 to 6999	0.46	0.43	0.46	0.43	0.48	0.48
7000 to 9999	0.43	0.33	0.43	0.38	0.48	0.41
10000 to 14999	0.33	0.31	0.38	0.33	0.41	0.38
15000 to 19999	0.31	0.28	0.33	0.33	0.38	0.38
20000 to 24999	0.30	0.26	0.33	0.33	0.38	0.36
25000+	0.26	0.26	0.33	0.33	0.36	0.36

Lot Size Category (square feet)	MR1		MR2/MR3	
	Beginning FAR	Ending FAR	Beginning FAR	Ending FAR
0 to 4999	0.58	0.58	0.58	0.58
5000 to 6999	0.58	0.53	0.58	0.53
7000 to 9999	0.53	0.48	0.53	0.53
10000 to 14999	0.48	0.48	0.53	0.43
15000 to 19999	0.48	0.43	0.43	0.38
20000 to 24999	0.43	0.38	0.38	0.38
25000+	0.38	0.38	0.38	0.38

In considering the Planning Department's amendments to the Working Group proposal presented at the Committee's last meeting on November 29th, the group concluded the following:

- ***Appropriateness of FAR as a neighborhood preservation tool.*** While the Planning Department strongly supports preservation of Newton's neighborhoods as described in the *Comprehensive Plan*, the group had mixed opinions about whether an FAR bonus actually works to incentivize preservation, as its primary purpose is to regulate mass above grade. Preservation is addressed more directly with such tools as a strengthened Demolition Delay Ordinance (also on the agenda for the Committee's meeting on December 13<sup>th</sup>).
- ***Appropriateness of FAR to guide good design in context.*** The group also discussed the aesthetic concerns that underscore discussions about protecting neighborhood character, but concluded that aesthetics may be better addressed through a design

review process that could be set up through the existing Urban Design Commission. While not the primary purpose of the FAR Working Group, all agreed this might be worthy of discussion in the future. However, the group concluded that FAR does a better job at addressing concerns about side setbacks; offering a .02 bonus for new construction on old lots that meets new lot setback standards is relatively straightforward, as setbacks are more easily measured and there is already a clear demarcation in the ordinance between old and new lots, and encouraging building to new lot setbacks can directly benefit abutters and neighbors.

- ***Ease of interpretation.*** The group had concerns that the distinction between “renovation” and “new construction” could be unclear and/or lead to unintended consequences, much like the previous 50% demolition rule. While this distinction has not been a problem in the current FAR bonus, there is concern that it may become problematic if more widely used in a stronger economy. Finally, it was felt that effectively having two sliding scales (one for new construction and one for renovation) could become overly complicated.
- ***Points of comparison.*** The group compared different scenarios of FAR limits to current zoning, both with and without the current FAR bonus that grants up to .07 in additional FAR. Compared to current zoning excluding the current bonus, the Working Group’s proposed limits were, in the Planning Department’s opinion, a bit high; however, considering the proposals in light of current zoning with the current bonus, the Working Group’s numbers are more equivalent to the current situation, particularly regarding available building capacity in the smaller lot size categories and nonconformity rates. It was agreed that the difference in the FAR limits recently contemplated is relatively small, and the Planning Department believes at this point that the margin of error in the dataset used to generate various analyses is probably larger than the variation in the scenarios under consideration. (The dataset is based on Assessors’ data, which calculates square footage slightly differently than the Planning and Inspectional Services Departments, and there are certain pieces of information, such as measurements of mass below grade for individual houses, that the model lacks entirely.) Should the Board of Aldermen adopt the revised proposal, practical experience will offer much more compelling evidence of its appropriateness, and the Board may wish to use that evidence as the basis for adjusting the FAR limits in the future.

## Measuring Success

The Planning Department and FAR Working Group discussed with the Commissioner of Inspectional Services how to monitor the new FAR system should the Board adopt it.

In monitoring and assessing a new FAR system after it has been in place, ISD and Planning will be attuned to the same factors that led to the beginnings of FAR reform in 2009. Typically, negative examples of development, often construction deemed too large for a particular lot or neighborhood, are brought to the attention of elected officials, the Planning Department, or ISD. In turn, City staff assess whether such examples amount to a larger trend and/or reveal a previously unnoticed loophole in regulations. The absence of negative examples and concerns about overbuilding, either on particular lots (e.g. what some have called “monster houses”) or in general, within a neighborhood, is one measure of success that the FAR reform is working at protecting neighborhoods. Input from the architecture and building community will also be invaluable in illuminating how professionals are designing under the regulations and whether any unintended consequences are at work.

On the other hand, a spike in the number of special permits for home expansions that are constrained by FAR may indicate that the FAR limits are too restrictive. The Planning Department does not seek to eliminate special permit cases surrounding FAR because there are circumstances where such review is appropriate. In general, however, the number of special permit cases should not rise from its current level (approximately a dozen per year) and ideally should fall.

In addition, ISD and Planning will work together to develop a spreadsheet that collects detailed FAR data should the proposed FAR scheme be adopted. Whereas applicants for building permits and special permits currently calculate each element of FAR (e.g. ground floor, second floor, attic, etc.) but *report* only their total FAR, the departments could require that the calculation be broken down and submitted on a worksheet. The information on these worksheets could be inputted into a spreadsheet that could then be used in efforts to analyze how the new FAR regulations are working. City staff also is exploring the means by which to employ an on-line calculator so that people can determine their FAR very simply by inputting their address.

## **Conclusion**

The Working Group along with staff from Inspectional Services and Planning Departments agree that the use of the Working Group’s sliding scale, reduced by .02 with a bonus of .02 for houses on old lots that respect new lot setbacks when they remodel, is a straightforward and simple solution. Along with the new definitions and recommendations regarding what will be counted towards FAR, we believe that the new methodology will be a fair and reasonable way to allow for development that is appropriate to lot size.